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FEB 18 2015

Planning Board Minutes – January 6, 2015

A meeting of the Town of Freetown **Planning Board** was held on **January 6, 2015** at the Freetown Council on Aging building at 227 Chase Road East Freetown, MA. Present: Chairman Robert Raymond, Keven Desmarais, Nicolas Velozo Robert Jose, Mark Rogers

A. Meeting called to order at 6 PM

B. BLK Realty LLC / K Trucking & Son Inc. 200 Chace Road Special Permit Hearing

The Chairman re-opened the continued hearing being conducted by the Planning Board acting as the Special Permit Granting Authority and explained the rules of decorum for public hearings. Handouts regarding the same were passed to those in attendance. Rob Robishaw, an employee of K Trucking, approached the Board. Owners Nancy and Blaine Kitchen were also in attendance. He explained there will be parking of trailers at the site, no additional changes are proposed and opened the floor up for questioning.

The Chairman pointed out that the application contains only a brief description of the project. He read a letter submitted by the applicants to the Building Department explaining the proposed project. He then read the letter from the Zoning Enforcement Officer (ZEO) which is also on record with the Planning Board.

The Chairman asked the applicants if they intend to distribute merchandise. Mr. Robishaw stated no. After some discussion the Board concurred that the special permit should be denied or granted based on the activities and uses that the applicants have requested. An audience member inquired as to why the ZEO sent the applicants to the Board for distribution permission if that is not what was proposed. The audience was instructed to inquire with the ZEO as to his reasons, but the Board must act on the application now that it is in front of them.

Paul Pelletier of Walnut Street stated that the special permit should be denied because of additional trailers adding traffic on Chace Road, which is narrow. He stated that the Letourneaus (former business that operated on the site) were given a special permit to park less trailers than what K Trucking is proposing, and that changing that special permit would not be an advantage to the neighborhood. The Chairman stated he is not aware of an existing special permit. He says that the ZEO's letter states that anything more than 10 trailers/trucks requires a special permit and that his understanding is that they are here due to the number of vehicles, not the nature of the business. Mr. Robishaw states that most of the trucks and trailers will be empty; some occasionally will have freight on them which will include non-perishable food, soda, etc. He states there will be no chemicals nor hazardous materials. Joe Lech of 193 Chace Road asked if refrigeration trailers will be on site and if so, what containment system will be in place if they leak; the applicants reply there is a possibility and there will be spill kits in the building. They have an account with Clean Harbors Environmental and they will cover basins as best they can. They state they are prepared in the unlikely event of a spill.

Wayne Zitano (191 Chace Rd) asked if any catch basins were on the property to catch any leakage that could go into wetlands. Mr. Robishaw stated there were not. Tony Branco (Louise Ave) asked if they will store fuel or oil. Mr. Robishaw states they have a double wall 6000 gallon tank with all necessary permits. Mr. Branco states that there should always be a containment area around the tank. Jared Zitano (191 Chace Rd) states his concerns for the wetlands, and that nothing is mitigating the impact of the trucks; no rain gardens, containment basins, etc have been proposed. Mr. Zitano asks if Conservation is dealing with the project. The Chairman states that there has apparently been no trigger for Conservation involvement. Wayne Zitano asked if there are drains to separate the fluid. Mr. Robishaw states there are no drains in the building. After some discussion, Keven Desmarais states that many of the audience questions are permitting issues taken care of in other departments. If any activity doesn't meet the codes of those departments, enforcement will take place, but some of these issues are outside Planning Board jurisdiction. He

states this has yet to come before Conservation, but it doesn't mean it won't need to.

Mark Rogers requested the applicants show a site specific health and safety plan with emergency numbers, etc. After some discussion regarding traffic, Mr. Robishaw submitted to the Board one document entitled "2014 Annual Commercial Truck Traffic Turns In and Out of 200 Chace Road" and another with the same title, but a projection for 2015. Mr. Robishaw states that the original study was done by Letourneau in 2014, and the 2015 projection shows the same traffic flow and truck loads in and out; he states that the level of truck activity will remain the same while the weight difference is less.

John Brightman (S Main St) inquired if there had been any complaints about Letourneau when that company was in operation. Mark Rosofsky (117 Chace Rd) stated that on occasion they would have small spills which they would address immediately. Mr. Brightman states that he visited the site and it looks like they have trucks and trailers similar to what Letourneau had.

Gabriel Saad (Slab Bridge Rd) stated his concern regarding spillage and washing of so many vehicles possibly contaminating his well water. The applicants stated there will be no washing on site; all vehicles are washed on the road. Joe Montour (46 Chace RD) states that he is a longtime resident and the Letourneau trucks drove the road everyday, and on the whole were good trucks. He states the Letourneau sometimes had trucks come in uncovered (required to be covered by law) and when that happened, the police would stop them. He states the Highway Barn has always had trucks, tanks, etc. and buses travel daily down Chace Rd. He states that to deny this small business which is already operating in another town is not right. Mr. Montour states this would benefit the other businesses in town; truck drivers are very responsible and good to the town.

Mr. Branco states that he is not anti-business, but wants the applicants to be aware of the concerns. Nancy Kitchen states they have been in operation since 1988 in Lakeville, Middleboro, and Wareham with no complaints; she states if there are any concerns or problems to let them know.

Wayne Zitano asks why they are leaving their Rt 28 Wareham location and if that road was wider and more commercial. Ms. Kitchen states it is, but they were leasing that site, this was a good opportunity to purchase. Robert Jose asks if all the drivers are employed by K Trucking, or if they use gypsies. Blaine Kitchen states that all drivers will be K Trucking employees. Donna Zitano (191 Chace Rd) asked if trucks will idle on the property. Mr. Robishaw states that they will be shut off and parked but on Monday they will have to go through warm up and starting operations. The applicants stated that they are allowed 15 minutes for this process through MA General Law. Mrs. Zitano states that she believes it is a 5 minute limit.

Mark Rosofsky asked the applicants if they have an operations other than the Wareham location that they will be consolidating and moving to Freetown. They state no. Mr. Rosofsky produced a document with info from the MA Secretary of State's office with a list of corporations that the applicants appear to have an interest in. He asks the applicants if all the entities are moving to Freetown and not just the 2 represented on the application.
Mr. Robishaw states that 'BLK Forest Products' is a new company, which will be same as Letourneau and sell mulch, which is a by right use. BLK Realty owns building for tax purposes. Mr. Desmarais states that if a permit is issued, it will be based on the level of requested activity, regardless of the number of corporations involved.
Mr. Rosofsky states that since the mulch operations are going to continue, the area is not losing Letourneau's level of business and gaining K Trucking, it is keeping Letourneau's level of business and adding K Trucking.
Mr. Robishaw states that Letourneau had 3 business out of the location and the Kitchens will be doing no different.
Mr. Rosofsky asks if the company grown or shrunk; the applicants state no. Mr. Rosofsky submitted a document showing info from the US DOT referring to K Trucking as declaring on a 10/22/14 document that they have higher number of trucks than their special permit application states as well as a document dated 10/22/14 that reports they have 15 power units and 15 drivers registered. Mr. Rosfsky asks that if the applicants' application states they have 15 trucks, what will they do with other trucks they have registered. Mr. Kitchen states that he has approximately 35 trucks, and that it may say more on the internet, but that often fluctuates based on what he buys

and sells. He states that he has drivers that he has employed for years that he has seen only a few times. The trailers go to many different locations, and stay there until the occasion when they need to come back.

Mr. Rosofsky inquires as to what will happen if it is discovered that they are housing more trucks than what they are permitted for. The Board replied that the ZEO would enact enforcement measures; that is not the Board's role.
Mr. Rosfsky states that the applicants say they don't haul hazardous materials. He states this is prohibited by DOT but they could trip lease. He asked if the applicant is willing to agree that they won't bring tankers or hazardous materials on site with the exception of fuel trucks. The Chairman stated that all concerns will be taken into consideration if and when the project is conditioned.

Jessica Mayhew (Pontes Way) asked what will extra new lights will be like. Mr. Robishaw stated they will be on motion sensors, low facing, and on timers. Gary Mendes (178 Chace Rd) stated that Letourneau was respectful of the neighborhood and the gates were locked in afternoon. He asked if there would be noise; Mr. Robishaw explains that business hours will be Mon – Sat 6am – 6pm, with an occasional truck before or after those hours on an emergency basis. Mrs. Zitano asks if there is any chance of conditioning that they close on noon on Saturday. After some discussion, Mr. Robishaw states that hours of operation 7am – 6 pm would be fine.

Jerry Velozo (Friend St) asks where in bylaws it states we can tell this man how many trucks he can operate. The Chairman says we cannot and to ask the ZEO about his interpretation. This application came to the Board and the public hearing allows folks to state their concerns while the Board does its due diligence.
Jared Zitano asks if the applicants would like to eventually grow since this is a large site. He asks if they will need to keep coming back to add more trucks. The Chairman explained that to expand the number of trucks they will have to come back to the Special Permit Granting Authority if the ZEO determines so; it will be decided on a case by case basis.

Chairman called a recess at 7:15, the meeting reconvened at 7:23.

Cathy Pelletier (Walnut Street) stated it would be advantageous to have a member from other boards/departments here to answer questions. The Chairman stated that we typically don't have another board attend our meetings unless we were assured an issue would come up, in which case a joint meeting would be held. In this case, there was no advanced indication that Conservation was going to be an issue. Conservation matters are out of the jurisdiction of the Planning Board, but if an issue comes up that is pertinent, the Board can recommend that they visit Conservation.
Mr. Desmarais states that the Board's job is like a jury, and it is the applicant's job to answer all questions, however, we cannot force another Board to come.

Chris Ross (197 Chace Rd) stated one thing Letourneau had for drainage was a continuous berm of crushed stone or mulch, and that should be part of this permit. He asked if there was a location on the plans showing where trucks and trailers will be stored. The Chairman asked if there were refrigeration trucks on site, if they will be running. Mr. Kitchen states that they will be empty.

Gil Hernandez (118 Chace Rd) states he is concerned due to the dangerous curve in the road, and the road has just been redone. He asked if the Board knows how much it will cost Freetown in taxes to keep having to repair the road. The Chairman stated that the applicants demonstrated in the provided load counts that there will not be an increase in traffic. Furthermore, the Board can't do anything about the current condition/layout of the road, and the Board can't compel unwarranted road improvements for this type of project. Keven Desmarais states that this is an issue for the Road Commissioners, but if they decided to put a weight restriction on the road, it would put a limitation on all vehicular traffic, not just the traffic coming from 200 Chace.

Mark Rogers asked the applicants to forward the O & M plan to the Board. Mr. Desmarais advised them to craft a site specific document with specifications on lighting and other site issues. Mr. Rosofsky asked if the applicants could

advise their drivers not to use jake brakes, if tankers could be parked only in designated areas, and if the Board could require the applicants to register their vehicles in Freetown so that Freetown could see the excise tax. Mr. Kitchen states that they plan to transfer registrations so Freetown gets the excise tax benefit.
Mr. Veloso (Friend St.) asks how the Board can even put in stipulations if the bylaw doesn't back up the fact that they even need to be here. Mr. Desmarais states that this case was sent to us by the ZEO, and we have to act on it. We are subject to a law suit if we don't act within the timelines. Mr. Velozo asks are we not subject to a lawsuit if we put stipulations on a project not specified in our by laws.

Mrs. Zitano raised the question of whether the applicants stated there would be tankers on the site. The applicant states that he does operate tankers. Conversation ensued as to whether that had been mentioned or not. The Chairman states that it is his understanding that no hazardous materials by state definitions will be on the site. Tankers may be used and stored on site, but won't be filled. The Chairman states that his question earlier was that will the trailers/tankers stored on site be emptied? The applicants' answer was that the vast majority will be. It was stated that some trailers will have materials on them.

Discussion ensued as to the amount of activity on the site, and the continuation of the mulch business. Mr. Robishaw states that the operation of the mulch business is by right and is a totally separate issue.

Mark Rogers asked the applicants if any spills have occurred at their Wareham location in the last 12 months; Mr. Kitchen states no. Mr. Rogers requested that Mr. Kitchen obtain a letter from Wareham's Fire Department attesting to that fact. The applicant was amenable.

Mr. Desmarais suggests continuing to another date to give the applicant an opportunity to get info together to address all concerns including proposed mitigations, listing of types of vehicles, etc. Rachel Lech (193 Chace Rd) requests that the ZEO and Conservation be on hand to answer questions. Keven Desmarais states that he will reach out to the ZEO to invite him and that he is Chairman of Conservation, but it is a 7 member board who have not been assigned oversight of this application. He offers to be available for general questions regarding Conservation. Motion to continue to Jan 20th here at the Council on Aging building at 6PM: Keven Desmarais; Second: Mark Rogers; all in favor.

Meeting adjourned at 8:45 PM

Respectfully Submitted,

Lauren Moreau